UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF WEST VIRGINIA

Harry Lawrence Quigley
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Plaintiff Pro Se

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TERESA L. DEPPNER, CLERK
U.S. District Court
Southern District of West Virginia

Harry Lawrence Quigley, Plaintiff Vs. City of Huntington WV Huntington Police Department Shane Bills Joseph Ciccarelli Defendants. ______________________	))))))))))))	Case No.: 3:17-cv-01906 **COMPLAINT FOR DAMAGES, INJUNCTIVE AND DECLARATORY RELIEF PURSUANT TO 42 U.S.C. 1983** **DEMAND FOR JURY TRIAL**

Jurisdiction

1. This court has jurisdiction under 28 U.S.C. 1331. Federal question jurisdiction arises pursuant to 42 U.S.C. 1983.

Venue

2. Venue is proper pursuant to 28 U.S.C. 1391 because the plaintiff lives in this district, and because the precipitating events birthing this action occurred in this district.

Parties

3. Plaintiff Harry Lawrence Quigley resides at 101 8th Avenue, Apartment 402, Huntington, WV 25701.

4. Defendant City of Huntington is addressed at City Hall, 800 Fifth Avenue,

Huntington, WV 25701.

5. Defendant Huntington Police Department is addressed at 675 10th Street, Huntington, WV 25701.

6. Defendant Shane Bills is employed as a policeman by the Huntington Police Department at 675 10th Street, Huntington, WV 25701.

7. Defendant Joseph Ciccarelli is employed as Chief of Police by the Huntington Police Department at 675 10th Street, Huntington, WV 25701.

Statement of Facts

8. On March 17, 2016, Plaintiff was age 68, very law-abiding, a resident of his current address for six and one-half years, and the recipient of a Concealed Carry Permit issued by Cabell County on July 1, 2015, following a satisfactory FBI background investigation.

9. Solely for financial reasons, Plaintiff relinquished ownership of his personal vehicle in March 2013, and thereafter resorted to walking for everyday necessities, fun, and exercise. Hundreds of times since March 2013, he has walked to or by the Kroger Grocery Store at First Street and Seventh Avenue, one block from his residence.

10. Adjacent to this Kroger lot is one, and only one, single family residence, occupied by Jason David Blankenship, age 41, born on July 29, 1975. Mr. Blankenship interrupted Quigley on three to four of Quigley's walks prior to March 17, 2016. On each such occasion, Quigley perceived Blankenship to be drunk and a type of person he had no reason to befriend, so Quigley kept the encounters cordial, but brief, then walked onward.

11. At approximately 7:30 pm on Thursday, March 17, 2016, Quigley walked to this Kroger to purchase beverages to share with a friend who was due at his apartment within ten minutes. From Seventh Avenue, Quigley had entered a few steps upon Kroger's lot when Blankenship's voice sounded, "Hey! Come here!" Quigley took approximately five

steps off Kroger's lot to stand on Blankenship's lawn and face him as he stood on his porch, three steps above ground level. Two male adults flanked Blankenship on his left. Blankenship flashed paper money and asked Quigley to buy them an 18-pack of beer from Kroger.

12. Quickly thinking this trio of drunks was short on money, fearful of being too drunk already to access more beer themselves from Kroger, or fearful of being arrested for public drunkenness by one of the Cabell County deputies who regularly patrol this Kroger lot, Quigley stated, "I don't have time for that. I have a date, and I am going to dash in and out of Kroger for drinks." When Quigley then turned 90 degrees to walk away, the glassy-eyed drunk immediately to Blankenship's left shouted, "He ain't got no goddamned date; he ain't goin to no goddamned Kroger!"

13. Quigley return pivoted 90 degrees, pointed his left hand at the glassy-eyed drunk and retorted, "I do have a date; I am going to Kroger; and you can stick those comments up your ass, you son-of-a-bitch!"

14. Immediately, all three of these drunks descended the three steps and formed a semicircle, 180 degrees, around Quigley, and postured to fight. Quigley stood his ground, and when his rotating eyes fell on Blankenship to his left, the blue-grey eyed man in the middle blasted Quigley's right eye with his left fist. Quigley immediately took one step back, while simultaneously drawing a six/seven inch straight blade knife from his waistband, removing the sheath with his left hand and dropping it to the ground, and using his right hand to position the knife at shoulder height, pointed toward the neck of the assailant.

15. The three drunks immediately froze. After a few seconds in this frozen scene, the assailant who blasted Quigley's eye, the one and only punch thrown in this encounter,

lowered his arms, placed them against his comrades, and began inching them rearward. When this attacker's eyes acknowledged something behind plaintiff, Quigley turned slightly rearward to see one of the Cabell County deputies who patrols Kroger crouched on a knee and pointing his pistol at Quigley, as the deputy's police car sat on Kroger's lot with driver's door open, approximately 20 feet from the deputy.

16. "Drop the knife!" commanded the deputy. Quigley complied and stated, "I'm happy to see you!" Three to four Huntington Police vehicles had arrived, and Quigley was ordered to place his hands on the deck lid of the car parked beside him. He was handcuffed, frisked twice, then ordered to sit in the back seat of a Huntington Police sedan. Two to three Huntington Police cars were parked on Seventh Avenue, in front of Blankenship's house, and approximately three Huntington policemen were talking to the three drunks.

17. Approximately one minute later, Quigley was ordered to stand outside the police sedan, whereupon one officer photographed Quigley's black eye and exclaimed, "Man, you got a shiner!" Quigley was then reseated in the police sedan and transported nine blocks to Huntington Police Headquarters at 675 10th Street, where he was fingerprinted and photographed, then transported three blocks to the Magistrate Court at 750 Fifth Avenue. Quigley asked the transporting officer, "Are the others being arrested?" The cop responded, "No, we didn't see anything. He (Jason Blankenship) told us to not arrest you."

18. On duty at approximately 8pm at the Magistrate Court was Dan Goheen, one of seven Cabell County magistrates, all elected via public elections. While Cabell County magistrate Mike Woelfel is a licensed attorney, the other six magistrates are not attorneys. Magistrate Dan Goheen has declared no college attendance, but merely a

background in "Insurance Services". Before introducing himself to Quigley, Goheen asked a question to the officer, and the cop replied, "They were all drunk." Since Quigley has not consumed alcohol excessively after an occasion at age 19, he concluded the cop's description applied to Jason Blankenship and his cohorts, brothers Jason Townsend and Robert Townsend.

19. Goheen instructed Quigley that he was charged with BRANDISHING, a misdemeanor. He asked for Quigley's income, rent and utilities, and whether he received food stamps. Goheen then stated, "You will be assigned a public defender but, meanwhile, I have no choice but to send you to jail." Goheen did not ask Quigley for any statement of facts or mitigating or exculpatory circumstances, such as self-defense. Goheen did not offer a summons in lieu of arrest, nor did he mention release on Quigley's own recognizance. Goheen declared Quigley's bond at $5,000, ten percent of which would gain his release from jail. In handcuffs, Quigley was then transported approximately 12 miles to Barboursville and processed into Western Regional Jail.

20. At no point in the entire process from physical encounter to incarceration did any cop introduce himself to Quigley or ask for a statement of precipitating facts.

21. Western Regional Jail did not assign Quigley a Prisoner Identification Number until his fourth day of incarceration; such ID is required to activate a call on the two phones serving the group of thirty inmates. On his 10th day in jail, Quigley's 89-years-old aunt travelled 80 miles to pay the $500 bond and set him free.

22. On March 30, 2016, Quigley appeared before non-attorney magistrate Danne Vance for the first hearing on the Brandishing charge. Neither Blankenship nor the Townsend brothers appeared. On May 19, 2016, Quigley again appeared before non-attorney magistrate Danne Vance, who dismissed the Brandishing charge upon

appearance by Jason Townsend who stated that he, the "alleged victim", chose to not proceed.

23. On June 20, 2016, Quigley visited Huntington Police Headquarters and requested his Solingen knife seized by the cops on March 17, 2016. Quigley presented Magistrate Court documents showing the case number, along with Magistrate Vance's signature on a form, evidencing dismissal of the case. The clerk asked Quigley to wait for retrieval of his knife, then reneged and instructed him to obtain a property release form from the Magistrate Clerk's Office.

24. On June 21, 2016, Quigley visited the Magistrate Clerk's Office and requested a property release form; he was told "We don't issue property release forms."

25. On June 27, 2016, Quigley sent a letter (Exhibit A) to Huntington City Attorney, Scott Damron, seeking Damron's assistance in a reasonable, non-confrontational return of Quigley's knife. Damron replied by letter (Exhibit B) dated July 6, 2016, instructing Quigley to obtain a Property Release Form from Magistrate Danne Vance.

26. On July 25, 2016, Quigley sent a letter addressed to both Defendant Ciccarelli and Magistrate Vance (Exhibit C), asking them to arrange a date and time for him to retrieve his Knife at Huntington Police Headquarters. Neither Vance nor Ciccarelli has replied.

27. In support of his claim, Plaintiff hereby attaches, as Exhibit D, his letter dated February 8, 2017, to Governor Jim Justice, Senator Carmichael, and Speaker Armstead, and, as Exhibit E, his letter dated May 25, 2016, to Vanita Gupta of the United States Department of Justice.

Claim I

(Violation of civil rights: Unlawful arrest, searches, seizures and confinement in custody)

(4th and 14th Amendments/42 U.S.C. 1983)

27. Plaintiff realleges paragraphs 1 through 26.

28. By doing the acts described above in Paragraphs 16 through 26, Defendants caused and/or permitted the violation of Plaintiff's Fourth and Fourteenth Amendment rights to be free from unreasonable searches, seizures, and confinement, thereby entitling Plaintiff to recover damages pursuant to 42 U.S.C. 1983.

Claim II

(Violation of civil rights: Violation of Due Process)

(14th Amendment/42 U.S.C. 1983)

29. Plaintiff realleges paragraphs 1 through 26.

30. By doing the acts described above in Paragraphs 16 through 26, Defendants caused and/or permitted the violation of Plaintiff's right to Due Process guaranteed by the Fourteenth Amendment, thereby entitling Plaintiff to recover damages pursuant to 42 U.S.C. 1983.

Request for Relief

WHEREFORE, the Plaintiff requests:

31. Compensatory damages, including general and special damages;

32. Declaratory order that Article 8, Section 10 of the West Virginia Constitution is null and void;

33. Declaratory order that West Virginia Code 61-7-11 is null and void;

34. Declaratory order that all West Virginia magistrates who are not licensed attorneys are terminated as of the date of such Order, and are from that date prohibited from employment in a judicial capacity anywhere in the United States;

35. Declaratory order that Defendant Shane Bills is, effective the date said Order is signed, enjoined and prohibited from employment in any law enforcement capacity

anywhere in the United States;

36. Declaratory order that Defendant Joseph Ciccarelli is, effective the date said Order is signed, enjoined and prohibited from employment in any law enforcement capacity anywhere in the United States;

37. Declaratory order that Defendant Joseph Ciccarelli, on or within ten days following the date said Order is signed, return to Plaintiff his Solingen knife, via Federal Express or United Parcel Service;

38. Declaratory order commanding the Cabell County Prosecutor, the City Attorney of Huntington, the Chief Justice of the West Virginia Supreme Court, the West Virginia Attorney General, the Governor of West Virginia, the President of the West Virginia Senate, and the Speaker of the West Virginia House of Delegates collaborate and produce for approval by this court, on or before a date specified by this court, signed by each of these designated persons, a written Plan to Ensure the Civil Rights of All United States Citizens Against Abuse by All West Virginia Law Enforcement and Judiciary Personnel, such Plan specifying instruction and training in (a) fact finding, and (b) law, along with the specific manner of testing each judge and police person for competence in administering law and authority;

39. Any further relief which the court may deem appropriate.

Demand for Jury Trial

40. Plaintiff hereby requests a jury trial on all issues raised in this complaint.

Dated: March 16, 2017

Harry Lawrence Quigley

By: Harry Lawrence Quigley

Plaintiff Pro Se